

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
BEAUMONT DIVISION

HUEY P. WALTERS

Plaintiff,

v.

BG FOODS INC. (MCDONALD'S # 4723)

Defendant.

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C.A. No. 1:14CV0096

**DEFENDANT'S ANSWER TO PLAINTIFF'S ORIGINAL COMPLAINT**

TO THE HONORABLE COURT:

Defendant BG Foods, Inc. files this its Original Answer to Plaintiff's Original Complaint and would respectfully show the Court as follows:

**I.**

**ANSWER**

**JURISDICTION AND VENUE**

1. Defendant admits that the United States District Court for the Eastern District of Texas has jurisdiction over this cause of action because Plaintiff's complaint presents a federal question. However, Defendant denies that Plaintiff is entitled to the damages he seeks.

**PARTIES**

2. Defendant lacks sufficient knowledge to admit or deny Paragraph 2.

3. Defendant admits that BG Foods, Inc. is a Texas company with its principle place of business in Texas. Defendant admits the remaining allegations in Paragraph 3.

### **FACTS**

4. Defendant admits that on February 23, 2012 Plaintiff was employed by Defendant as a Manager in Training at its restaurant located at 190 I-10 North Beaumont Jefferson, Texas 77702.

5. Defendant denies the allegations contained in Paragraph 5.

6. Defendant admits that a Charge of Discrimination was filed with the Texas Workforce Commission Civil Rights Division and the U.S. Equal Employment Opportunity Commission on August 25, 2012.

7. Defendant admits that on November 19, 2013 the U.S. Equal Employment Opportunity Commission issued a finding that based upon its investigation, it was unable to conclude that the information obtained established a violation of any applicable statute. Defendant admits that Plaintiff was issued a Notice of Right to Sue on November 19, 2013. Defendant lacks sufficient knowledge to admit or deny the remaining portions of Paragraph 7.

8. Defendant denies the allegations contained in Paragraph 8.

9. Defendant admits that Plaintiff was terminated on June 7, 2012 for theft of company product. Defendant denies the remaining allegations contained in Paragraph 9.

10. Defendant denies the allegations contained in Paragraph 10.

### **DAMAGES**

11. The legal assertions contained in Paragraph 11 do not require a response. To the extent a response is required, however, Defendant denies the statement of law and deny that Plaintiff is entitled to the requested relief.

**II.**  
**ADDITIONAL DEFENSES**

1. The Complaint, and each purported cause of action contained therein, fails to state a claim upon which relief may be granted.
2. The conduct of Defendant at all times complied with all applicable statutes, regulations, and laws; accordingly, the Complaint and each purported claim for relief therein is barred.
3. Plaintiff's alleged damages, if any, were proximately caused by the conduct of persons or entities other than Defendant and Plaintiff's recovery, if any, must be reduced in proportion to the amount of fault attributable to such conduct.
4. Defendant is informed and believes and thereon alleges that any damages allegedly sustained by Plaintiff were caused by the actions and/or omissions of someone other than Defendant over whom Defendant had no control.
5. Some or all of Plaintiff's claims and damages, if any, are barred because Plaintiff failed to mitigate his damages.
6. The Complaint fails to allege facts sufficient to state a claim for injunctive relief.
7. To the extent, if any, Plaintiff is entitled to damages, the damages may not exceed the nature of damages, or amount of damages, imposed by statutory or common law limitations and caps contained in applicable federal and state law.
8. Plaintiff's claims are barred or reduced by the doctrine of contributory negligence.
9. Subject to these defenses, Defendant denies all allegations and demands strict proof by a preponderance of evidence.

10. Defendant is without knowledge or information sufficient to form a belief as to whether other defenses may apply in this matter. Defendant expressly reserves its right to raise any additional defenses that may be revealed by investigation or discovery.

**III.**  
**REQUESTED RELIEF**

WHEREFORE, Defendant BG Foods, Inc. respectfully prays that Plaintiff take nothing by his suit and for such other relief to which Defendant may be justly entitled.

Respectfully Submitted,

/s/ Janis H. Detloff

**JANIS H. DETLOFF, ATTORNEY-IN-CHARGE**

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**ATTORNEYS FOR DEFENDANT**  
**BG FOODS, INC.**

**CERTIFICATE OF SERVICE**

Pursuant to *Fed. R. Civ. P.* 5(b)(2)(E) and 5(b)(3), I hereby certify a true and correct copy of the foregoing document was filed electronically on March 26, 2014. Parties may access this filing through the court's system. Notice of this filing will be sent by operation of the Court's electronic filing system to counsel for Plaintiff:

Huey P. Walters  
9485 McLean Beaumont  
Jefferson, Texas 77707

/s/ Janis H. Detloff  
Janis H. Detloff